



(1)

907criapl2544.25

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**907 CRIMINAL APPLICATION NO.2544 OF 2025
IN CRIMINAL APPEAL NO. 505 OF 2025**

LAKHAN SUDAM SAUDAGAR

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Z. H. Farooqui, Advocate for the applicant
Mrs. A. S. Deshmukh, APP for the respondents/State
Mr. R. D. Sanap, Advocate for the respondent No. 2

CORAM : RAJNISH R. VYAS, J.

DATE : 24th FEBRUARY, 2026

PER COURT :

1. This is an application for grant of bail and suspension of sentence. The applicant was convicted in Sessions Case No.547/2020 by the Special Judge & Additional Sessions Judge, Ahmednagar on 07-05-2025 for the commission of offences punishable under Sections 8 & 12 of the POCSO Act and Sections 354, 354-A, 354-D, 324 & 452 of the Indian Penal Code. The maximum sentence is of three years. The sentences were ordered to run concurrently. The fine amount is already deposited by the applicant.

2. Learned Advocate for the applicant submitted that all through out the trial, he was on bail except 156 days and he did not misuse the liberty. He further submitted that he cooperated for early

completion of trial. Sentence imposed upon the applicant is of fixed term and he can ask to undergo same, if the appeal is otherwise decided. He submitted that the case of the prosecution, in short, was that on the day of incident the victim 12 years old girl was alone in the house, at which time the applicant/accused residing in the same locality entered and thereafter pressed her breast. On this allegation, the applicant was convicted. Learned Advocate for the applicant submitted that the first information report was lodged on 22-02-2020 and incident has taken place on 21-02-2020. The delay will have to be looked into. He further submitted that whether the victim was a child or not will have to be tested. PW-7 who was Clerk attached to the Nagarparishad cannot be said to be a person who can prove the age of the victim. He, thus, prays for allowing the application.

3. Per contra, learned APP has contended that though sentence is of three years, considering the age of the victim and the object of Act of 2012 the sentence may not be suspended.

4. Mr. Sanap, learned Advocate has also supported the stand taken by the learned APP and submitted that the sentence awarded by the trial court is based on the proper appreciation of evidence.

5. I have given my thoughtful consideration to the argument advanced, so also, I have gone through the record of the

case. At this stage, it would not be proper to discuss the case on merits. Suffice it to say that incident had occurred on 21-02-2020 and report was lodged on 22-02-2020. Though the delay in such cases is not fatal, but the fact remains the testimony of child and other witnesses will have to be tested in the light of the grounds raised in the memo of appeal. The question also will have to be considered whether PW-7 has rightly proved the date of birth. Thus, considering the fact that decision on the appeal will take time and arguable points are made out in the appeal and sentence imposed upon him is of fixed term, I am inclined to allow the application. Hence the following order is passed:

ORDER

- a] The criminal application is allowed.
- b] Sentence of three years imposed upon the applicant for the commission of offences punishable under Sections 8 & 12 of the POCSO Act and Sections 354, 354-A, 354-D, 324 & 452 of the Indian Penal Code in Sessions Case No. 547/2020 by the Special Judge & Additional Sessions Judge, Ahmednagar on 07-05-2025 is hereby suspended till final decision of the appeal.
- c] The applicant be released on bail on same terms and conditions as were imposed by the trial court.
- d] The application is disposed off accordingly.

[RAJNISH R. VYAS, J.]